

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DAVID SLACK, et al.,

Plaintiffs,

v.

RUSSELL E. BURNS, et al.,

Defendants.

Case No. 13-cv-05001-EMC

**ORDER GRANTING IN PART AND
DENYING IN PART PLAINTIFFS'
ADMINISTRATIVE MOTION TO SET
EXPERT DEPOSITION OR, IN THE
ALTERNATIVE, TO MODIFY
BRIEFING SCHEDULE**

Docket No. 294

Previously, the Court issued an order setting a briefing and hearing schedule for the parties' motions for summary judgment. *See* Docket No. 266 (order). Under that order, Plaintiffs' reply in support of their motion for partial summary judgment and Plaintiffs' opposition to Defendants' motion for summary judgment (one consolidated brief) is due on June 2, 2016. Defendants' reply in support of their motion for summary judgment is due on June 9, 2016. The hearing on both parties' motions is set for June 30, 2016.

Currently pending before the Court is Plaintiffs' motion in which they ask that the Court order Defendants to produce their expert for deposition prior to June 2, *i.e.*, the day that Plaintiffs' brief is due. (The expert submitted a declaration in support of Defendants' opposition to Plaintiffs' motion for partial summary judgment and Defendants' motion for summary judgment.) In the alternative, Plaintiffs ask that the court adjust the remaining briefing schedule and hearing date so that they may depose Defendants' expert before their brief is due.

Having considered the parties' briefs and accompanying submissions, the Court hereby rules as follows.

The hearing on the parties' motions is hereby rescheduled for **July 7, 2016, at 10:00 a.m.**

1 Plaintiffs' remaining brief shall be filed by June 7, 2016. Defendants' remaining brief
2 shall be filed by June 16, 2016.

3 Defendants shall produce their expert for deposition no later than June 3, 2016. The
4 parties shall meet and confer regarding a reasonable date, time, and location. The Court authorizes
5 a deposition on the weekend.

6 Plaintiffs shall produce their expert for deposition no later than June 12, 2016. As above,
7 the parties shall meet and confer regarding a reasonable date, time, and location, and the Court
8 authorizes a deposition on the weekend.

9 Finally, the Court hereby sanctions defense counsel (not Defendants) pursuant to its
10 inherent authority. The Court finds that defense counsel has engaged in conduct amounting to bad
11 faith. *See Fink v. Gomez*, 239 F.3d 989, 993 (9th Cir. 2001). Plaintiffs' request to depose
12 Defendants' expert prior to Plaintiffs' briefing due date was reasonable and was consistent with
13 the briefing and hearing schedule previously ordered by the Court. Defense counsel's refusal to
14 entertain *any* compromise (including, *e.g.*, an adjustment to the briefing and hearing schedule) is
15 not justified in any way. Defense counsel is ordered to pay Plaintiffs \$500 which is a rough
16 approximation of the reasonable attorney's fees incurred by Plaintiffs in preparing their motion for
17 relief before this Court. Such payment shall be made within three days of this order.

18 This order disposes of Docket No. 294.

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20 **IT IS SO ORDERED.**

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22 Dated: May 19, 2016



EDWARD M. CHEN
United States District Judge